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Archbishop of San Francisco**

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

In re
THE ROMAN CATHOLIC ARCHBISHOP
OF SAN FRANCISCO,

Debtor and
Debtor in Possession,

Case No. 23-30564

Chapter 11

**[PROPOSED] STIPULATED
PROTECTIVE ORDER DATED
DECEMBER 15, 2023**

The Hon. Dennis Montali

1 Based upon the agreement of Roman Catholic Archbishop of San Francisco (the “**Debtor**”)
2 or “RCASF”), on the one hand, and the Official Committee of Unsecured Creditors of the Debtor
3 (the “**Committee**”), on the other hand, (each, a “**Party**,” and collectively, the “**Parties**”, and subject
4 to the approval of the United States Bankruptcy Court for the Northern District of California (the
5 “**Bankruptcy Court**”), this Stipulated Protective Order pursuant to Fed. R. Bankr. P. 7026 and 9018
6 and Fed. R. Civ. P. 26(c) shall govern the disclosure of information and documents, including
7 deposition testimony or transcripts, in connection with the above-captioned Proceeding. For the
8 avoidance of doubt, nothing herein alters or supersedes the provisions of the *Order Fixing Time for*
9 *Filing Proofs of Claims; Approving Proof of Claim Forms; Providing Confidentiality Protocols;*
10 *and Approving Form and Manner of Notice*, ECF No. 337 or the Claims Confidentiality Agreement
11 contained therein.

12 1. A “**Challenging Party**” is a Party or Non-Party that challenges the designation of
13 information or items under this Order.

14 2. “**Counsel**“ means and includes (i) attorneys who are employees of a Party to this
15 Proceeding (“**House Counsel**”) and (ii) attorneys who are retained to represent or advise a Party to
16 the Proceeding and have appeared in the Proceeding on behalf of that party or are affiliated with a
17 law firm which has appeared on behalf of that Party (including paralegal, stenographic and clerical
18 personnel) (“**Outside Counsel**”).

19 3. A “**Designating Party**” is a Party or Non-Party that designates information or items
20 that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

21 4. “**Designated Materials**” are any and all Discovery Materials that are designated as
22 “CONFIDENTIAL.”

23 5. An “**Expert**” is a person with specialized knowledge or experience in a matter
24 pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness
25 or as a consultant in this action (including but not limited to financial advisors, consultants, and
26 other retained professionals approved by the Court).

27 6. A “**Non-Party**” is any natural person, partnership, corporation, association, or other
28 legal entity not named as a Party to this action.

1 7. A “**Producing Party**” is a person or entity that produces information (whether
2 written, photographic, electronic or otherwise), documents (including deposition testimony or
3 transcripts) or other things in connection with this Bankruptcy Case (“**Discovery Materials**”) in
4 response to formal or informal discovery served in connection with the Bankruptcy Case, including
5 any related contested matter, adversary action, or appeal (each, as applicable, the “**Proceeding**”).

6 8. “**Professional Vendors**” are third-party persons or entities that provide litigation
7 support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations,
8 and organizing, storing, or retrieving data in any form or medium) and their employees and
9 subcontractors, who are engaged for purposes of the Proceeding,

10 9. A “**Receiving Party**” is a person or entity to whom a Producing Party produces
11 Discovery Materials in response to formal or informal discovery served in connection with any of
12 the Proceedings.

13 10. “**Joinder Firm**” as used herein, means those attorneys who have been retained by
14 one or more Committee Members to represent such person(s) in the prosecution of claims arising
15 under AB 218 (California Code of Civil Procedure section 340.1) (the “**CVA**”) and individually in
16 the Proceeding who have executed a Confidentiality Joinder in the form attached as Exhibit A.

17 11. “**Committee**” as used herein, means the Official Committee of Unsecured Creditors
18 appointed in the Bankruptcy Case.

19 12. Definition of “Confidential Information”

20 (a) “**Confidential Information**” means and includes any Discovery Materials
21 which (i) (A) constitutes or contains nonpublic proprietary or confidential technical, business,
22 financial, personal or other information of a nature that can be protected under 11 U.S.C.
23 § 107(b)(1), Bankruptcy Rules 7026 or 9018, or Federal Rule of Civil Procedure 26(c); (B)
24 constitutes or contains information that the court in this Chapter 11 Case has determined must be
25 protected under 11 U.S.C. § 107(b)(2) or Bankruptcy Rule 9018; (C) is protected under non-
26 bankruptcy law or made confidential by contract; or (D) is information that is believed to
27 unreasonably invade the privacy of an individual; or (ii) the Producing Person (A) is under a
28 preexisting obligation to a third-party to treat such Discovery Material as confidential; or (B) has in

1 good faith been requested by a Designating Party to so designate such Discovery Material on the
2 grounds that such other Party considers such Discovery Material to contain information that is
3 confidential or proprietary to such Party.

4 (b) Notwithstanding the foregoing, Confidential Information shall not include
5 information which (i) was generally available to the public prior to its disclosure in this Proceeding,
6 (ii) becomes generally available to the public after its receipt from the Producing Party through no
7 act or failure to act on the part of any Receiving Party, (iii) has been published, communicated or
8 disseminated by a party under no obligation to maintain its confidentiality to others not obligated to
9 maintain the confidentiality of the information, or (iv) was obtained by a Receiving Party
10 independent of the Confidential Information provided pursuant to this Protective Order and not
11 otherwise in violation of this Protective Order or any other legally recognized confidentiality
12 privilege.

13 13. Designating Discovery Materials “CONFIDENTIAL”

14 (a) A Producing Party shall designate Discovery Materials as containing
15 Confidential Information by affixing, in a manner that shall not interfere with the legibility of the
16 materials, the words “CONFIDENTIAL” on each page of the Discovery Materials so designated.
17 The impracticality or inadvertent failure to designate each page of a document as CONFIDENTIAL
18 pursuant to this paragraph shall not constitute a waiver of the confidential nature of the document
19 or page(s).

20 (b) To the extent that information is produced in a form rendering it impractical
21 to label (including electronic documents), the Producing Party may designate such Discovery
22 Materials as Confidential Information using other such reasonable means as necessary to identify
23 clearly the Discovery Material as “CONFIDENTIAL.” Other such reasonable means includes, but
24 is not limited to, designating Discovery Materials by cover letter, by including the word
25 “CONFIDENTIAL” in the filename of an electronic document, or by conspicuously so labeling
26 other tangible, non-documentary Discovery Materials.

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10 | 14. Use of Designated Materials by Receiving Party

11 Designated Materials, or information derived therefrom, shall be used by the Receiving Party
12 solely in connection with the Proceeding and shall not be used in any other proceeding or for any
13 other purpose, including without limitation any business, competitive, governmental, commercial,
14 administrative, publicity, press release, marketing, or research purpose or function, or in any other
15 legal case, lawsuit, proceeding, investigation, or otherwise except as expressly provided herein, or
16 as ordered by the Court.

17 || 15. Disclosure of Designated Materials By a Receiving Party

24 (1) the Court and persons employed by it or appointed by it in connection
25 with the Proceeding:

(2) Counsel:

1 have accepted the terms of this Protective Order by executing the
2 Acknowledgment and Agreement to be Bound attached as Exhibit A
3 to this Protective Order (the "**Agreement To Be Bound**");

- 4 (4) Each Joinder Firm;
5 (5) Experts specifically retained by the Parties for purposes relating to the
6 Proceeding to whom disclosure is reasonably necessary for the
7 Proceeding;
8 (6) Professional Vendors to whom disclosure is reasonably necessary for
9 the Proceeding;
10 (7) any person called to testify as a witness in the Proceeding and their
11 counsel, but only to the extent necessary for the purpose of assisting
12 in the preparation or examination of the witness.

13 Furthermore, before providing "CONFIDENTIAL" materials to any of the persons identified in
14 subparagraphs (4)-(7), each such person set to receive the materials must first (i) be provided a copy
15 and informed of the terms of this Protective Order and (ii) execute the Agreement To Be Bound.

16 (b) Disclosure of Designated Materials to the persons authorized pursuant to
17 paragraph 15(a) shall be made only as necessary for matters in the Proceeding, No person to whom
18 Designated Materials are disclosed may disclose such materials or the contents of such materials to
19 any person to whom disclosure is not authorized by the terms of this Protective Order.

20 16. Use and Disclosure of Designated Materials By the Designating Party

21 This Protective Order does not restrict in any manner a Designating Party's use or disclosure
22 of its own Designated Materials. If a Designating Party discloses its Designated Materials in a
23 document filed with the Court not under seal, in a court hearing, or a deposition and not designated
24 "CONFIDENTIAL" as set forth herein, such Discovery Materials shall no longer be considered
25 Confidential Information. A Designating Party's use or disclosure of its Confidential Information
26 does not, standing alone, waive or otherwise prejudice any other Party's or person's evidentiary
27 objections or privileges (or lack thereof) with regard to the disclosed information.

28 17. Filing Designated Materials With the Court

1 (a) Filing Under Seal. Any document containing Designated Materials or
2 information derived therefrom that is submitted to or filed with the Court shall be filed under seal
3 as a restricted document consistent with applicable law, Federal Rules, Bankruptcy Rules, and the
4 Court's local rules and procedures, including the *United States Bankruptcy Court for the Northern*
5 *District of California Procedures for Filing Redacted or Sealed Confidential or Highly Sensitive*
6 *Documents*. Accordingly, pursuant to Bankruptcy Code § 107(c)(3)(A), any party seeking to file
7 any information or documents under seal shall provide counsel to the U.S. Trustee with an
8 unredacted copy of all documents sought to be sealed.

9 (b) Denial of Motion to Seal. If the motion to seal is denied, the material subject
10 to the motion to seal shall be, at the filer's request, either returned to the filer or deleted or otherwise
11 destroyed unless the subject material later is filed as a public document.

12 (c) Information Derived From Designated Materials. The mere inclusion in a
13 paper or pleading of factual information derived from Designated Materials will not require that
14 paper or pleading to be filed under seal if the Designating Party agrees in writing prior to filing the
15 paper or pleading that the factual information contained in the filing would not itself be properly
16 deemed Confidential Information. If the Parties cannot resolve a dispute regarding the inclusion in
17 a paper or pleading of facts derived from Designated Materials, the procedures of subparagraphs (a)
18 and (b) shall be followed prior to filing any such paper or pleading.

19 18. Use of Designated Materials at Deposition

20 This Protective Order shall not preclude Counsel for a Receiving Party from using during
21 any deposition in the Proceeding, any Designated Materials, provided however, that the Receiving
22 Party who intends to use the Designated Materials shall provide notice of its intent to do so no later
23 than three (3) business days prior to any such deposition or the date of production if produced within
24 three days of the deposition and the deponent is qualified to receive the Designated Materials
25 pursuant to paragraph 15.

26 19. Designating Deposition Testimony or Exhibits

27 (a) Time and Method for Designations. Deposition testimony or deposition
28 exhibits may be designated as "CONFIDENTIAL" either on the record during the deposition or by

1 written notice to Outside Counsel for the parties participating in the deposition served within fifteen
2 (15) business days after the deponent receives an initial copy of the deposition transcript.

3 (b) Confidentiality of Transcripts and Exhibits During Designation Period.

4 Deposition transcripts and exhibits shall not be disclosed to any person other than the Designating
5 Party, Receiving Party, and the deponent during this fifteen (15) business day period. No person
6 attending such a deposition shall disclose the contents of the deposition or deposition exhibits to any
7 individual other than the Receiving Party during said fifteen (15) business day period. Upon being
8 informed that certain portions of a deposition are to be designated as "CONFIDENTIAL," all parties
9 shall promptly cause each copy of the transcript in its custody or control to be appropriately marked
10 and limit disclosure of that transcript in accordance with this Protective Order. A Receiving Party
11 may contest the designation of deposition testimony as "CONFIDENTIAL" pursuant to the process
12 for challenging the designation of Designated Materials set forth herein.

13 (c) Disclosure of Designated Deposition Testimony or Exhibits. Deposition

14 testimony and exhibits designated as "CONFIDENTIAL" shall be subject to the same restrictions
15 on use and disclosure applicable to all other Designated Materials, as set forth above.

16 20. Use of Designated Materials at a Hearing or Trial.

17 (a) The Parties shall discuss the manner of use of Designated Materials at any

18 hearing or trial in the Proceeding, including any procedures related to the non-public disclosure of
19 Designated Materials, and shall consult with the U.S. Trustee with regard to any planned use of
20 Designated Materials that is subject to statutory privacy laws at any hearing or trial in the Proceeding
21 that involves the non-public disclosure thereof. In the event that an agreement cannot be reached
22 on such procedures, the issue shall be determined by the Court.

23 (b) Notice to Designating Party of Intent to Use Designated Materials. Any party

24 that intends to use Designated Materials at a hearing or in trial must provide written notice of the
25 specific Designated Materials the party intends to use at least five (5) business days prior to the date
26 that the party desires to use the materials or the date of production if the documents are produced
27 less than five (5) days from the date that the party desires to use the materials to provide an
28 opportunity for (i) the Designating Party and the party that desires to use the Confidential

1 Information to negotiate an agreement that avoids the need to file or otherwise introduce the
2 Designated Materials under seal or, in the absence of an agreement, (ii) the Designating Party to file
3 a motion seeking an order sealing, redacting, or otherwise protecting such Designated Materials
4 from public disclosure. If the Designating Party files a motion to seal prior to the filing or use of
5 the Designated Materials at the hearing or trial, the party desiring to use the Designated Materials
6 shall (i) maintain the confidential status of the Designated Materials pending the Court's ruling on
7 the motion to seal and (ii) use the Designated Materials only in strict conformity with the Court's
8 ruling on the motion to seal. If a party fails to file a motion to seal, the party desiring to use the
9 Designated Materials may disclose the applicable Confidential Information in the Court without any
10 confidentiality protection so long as the party provided the requisite five (5) business days' notice.

11 (c) All trial exhibits or other materials to be offered into evidence in the
12 Proceeding as to which a party seeks to prevent or limit public disclosure shall, to the extent not
13 already provided, be provided to counsel to the U.S. Trustee in an unredacted form before the
14 hearing, subject to the continuing restrictions on use and disclosure provided hereunder.

15 21. Challenging the Designation of Designated Materials.

16 (a) Written Notice of Challenge to Designating Party. In the event that a dispute
17 arises concerning whether Designated Materials are properly designated as "CONFIDENTIAL," the
18 party challenging the designation shall advise the Designating Party by written notification,
19 specifying why such treatment is improper. The Parties shall attempt to resolve any such disputes
20 in good faith within five (5) business days.

21 (b) Motion to Challenge Designations. If any dispute concerning the designation
22 of Discovery Materials as "CONFIDENTIAL" cannot be resolved within five (5) business days, the
23 party objecting to the designation of the information may, on an expedited basis, move the Court
24 for an order relieving it from the obligations of this Protective Order with respect to the challenged
25 Designated Materials. The challenged Designated Materials shall continue to be subject to the
26 protections and restrictions set forth herein until the issue is determined by the Court. Nothing in
27 this Protective Order shall affect the right of any Party to appeal the Court's determination regarding
28 confidentiality.

3 22. Other Disputes

In the event that any other disputes arise under this Protective Order, the party or parties raising the dispute shall advise the non-objecting party or parties by written notification, specifying the dispute. The Parties shall attempt to resolve in good faith within five (5) business days any such disputes, provided, however, if any such dispute cannot be resolved in five (5) business days, the disputing party may, on an expedited basis, request a telephonic conference with the Court to resolve such dispute in lieu of a formal motion. Counsel to the disputing party or parties requesting the telephone conference will send a brief e-mail to chambers describing the dispute, with a copy to counsel to the opposing party or parties. Counsel to the opposing party or parties may send a brief e-mail response to chambers, with a copy to the disputing party or parties. The Parties, absent Court order to the contrary, shall treat the foregoing emails as sealed, and may request that any telephonic conference with respect to such dispute be treated as a confidential chambers conference.

15 23. The provisions of Rule 502(d) of the Federal Rules of Evidence shall apply to any
16 formal or informal production made by a Producing Party during the pendency of the Proceeding.

17 24. In the event a Receiving Party discloses Confidential Information to persons or
18 entities not authorized by this Protective Order to receive such Confidential Information, the
19 Receiving Party shall, upon learning of the disclosure: (i) promptly notify the person or entity to
20 whom the disclosure was made that the disclosure contains Confidential Information subject to this
21 Protective Order; (ii) promptly make reasonable efforts to recover the disclosed Confidential
22 Information as well as preclude further dissemination or use by the person or entity to whom the
23 disclosure was made; (iii) immediately notify the Producing Party and/or Designating Party of the
24 identity of the person to whom the disclosure was made, the circumstances surrounding the
25 disclosure, and the steps taken to recover the disclosed Confidential Information; and (iv) take
26 necessary steps to protect against the further dissemination or use thereof. Disclosure of Designated
27 Materials other than in accordance with the terms of this Protective Order may subject the disclosing
28 person to such sanctions and remedies as the Court may deem appropriate.

1 25. Nothing herein shall be construed to prohibit, limit or restrict (a) any Receiving Party
2 from obtaining any evidence, including without limitation Confidential Information, through any
3 means of discovery that is provided under applicable rules of civil procedure (including the Federal
4 Rules, the Bankruptcy Rules and the California Code of Civil Procedure) or (b) a Producing Party
5 from objecting to the production, disclosure or admissibility of any evidence, including without
6 limitation, Confidential Information.

7 26. The Parties to this Protective Order (including parties executing the Agreement To
8 Be Bound) agree that prior to and after the completion of the Proceeding, the provisions of this
9 Protective Order shall continue to be binding and the Court shall retain jurisdiction over the Parties
10 and any other person who has had access to Confidential Information pursuant to this Protective
11 Order, in order to enforce the provisions of this Protective Order.

12 27. Except as otherwise provided by the Court, within thirty (30) days of a final decree
13 closing the Bankruptcy Case, the Receiving Parties shall return all Designated Materials to the
14 Producing Parties or, at the Receiving Party's option, destroy the Designated Materials and certify
15 such destruction in writing.

16 28. Any interested party with respect to the Bankruptcy Case, including but not limited
17 to any person intending or planning to receive or produce documents, receive or disclose
18 information, or provide testimony in connection therewith, may become a Party to this Protective
19 Order by executing, prior to any disclosure, the Agreement To Be Bound, in which case the
20 provisions of this Protective Order shall fully apply to any discovery material that they may provide
21 or receive, provided, however, that any Designated Materials may be produced to any such Party
22 only by or with the express written consent of the Producing Party and Designating Party, and
23 subject to the terms of this Protective Order.

24 29. In the event that any applicable law, regulation, or legal or judicial process requires
25 disclosure of any Designated Materials by any Receiving Party, such Receiving Party will provide
26 the Producing Party and Designating Party with prompt written notice of such requirement(s) so
27 that they may seek a protective order or other appropriate remedy. In the event that such protective
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1 order or other remedy is not obtained, the Receiving Party (i) may furnish that portion of the
2 Designated Materials which the Receiving Party is legally required to disclose.

3 30. Nothing herein shall be deemed to prevent a Producing Party, or any party or entity
4 claiming a Privilege or Protection in connection thereto, from objecting to discovery or asserting
5 that information being sought in discovery is of such a nature that discovery should not be afforded
6 because of the confidential, personal, or proprietary nature of the information being sought or to
7 preclude a Party from seeking additional or further limitations on the use or disclosure of such
8 information being sought in discovery.

9 31. No waiver of any breach or default shall be deemed or construed to constitute a
10 waiver of any other violation or other breach of any of the terms, provisions and covenants contained
11 in this Protective Order, and forbearance to enforce one or more of the remedies provided herein in
12 the event of a default will not be deemed or construed to constitute a waiver of that default or of any
13 other remedy provided for in this Protective Order. Furthermore, nothing contained herein shall
14 reduce any protections otherwise provided by other confidentiality agreements or orders to which
15 the Debtor, the Parties, and other person who becomes a Party hereto are a party.

16 32. This Protective Order may be executed in several counterparts, each of which shall
17 be deemed an original, but all of which together shall constitute one instrument. Upon approval by
18 the Court, this Protective Order is a binding agreement upon the signatories hereto (and all
19 signatories to the Agreement To Be Bound) and constitutes an order of the Court, the violation of
20 which is subject to enforcement and imposition of legal sanction in the same manner as any other
21 order of the Court.

22 33. This Protective Order may only be amended by written agreement of the Parties and
23 further order of the Court.

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1 Dated: December 15, 2023

2 PACHULSKI STANG ZIEHL & JONES LLP

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4 By _____ */s/ James I. Stang*
5 JAMES I. STANG
6 ANDREW CAINE
7 BRITTANY MICHAEL

8 Counsel for the Official Committee of Unsecured
9 Creditors

10 Dated: December 15, 2023

11 FELDERSTEIN FITZGERALD
12 WILLOUGHBY PASCUZZI & RIOS LLP

13 By _____ */s/ Paul J. Pascuzzi*
14 PAUL J. PASCUZZI
15 JASON E. RIOS
16 THOMAS R. PHINNEY

17 Co-Counsel for The Roman Catholic Archbishop of
18 San Francisco

19 Dated: December 1, 2023

20 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

21 By _____ */s/ Ori Katz*
22 ORI KATZ
23 ALAN MARTIN

24 Co-Counsel for The Roman Catholic Archbishop of
25 San Francisco

1 **Exhibit A to Stipulated Protective Order**

2 **Acknowledgement and Agreement to Be Bound**

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ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND
BY THE PROTECTIVE ORDER

This is to certify that I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the *Stipulated Protective Order* approved and entered by the United States Bankruptcy Court for the Northern District of California, San Francisco Division (the “Bankruptcy Court”) on _____, 2023, in the case of *In re The Roman Catholic Archbishop of San Francisco*, Case No. 23-30564: (a) am producing and/or being given access to Confidential Information¹ or Highly Confidential Information under the Stipulated Protective Order approved and entered by the Bankruptcy Court; (b) I have read the Stipulated Protective Order; and (c) I agree to be bound by the terms and conditions thereof as a “Receiving Party” and “Producing Party,” as the case may be, including, without limitation, the obligations regarding the use, non-disclosure and return of such Confidential Information.

I further agree that in addition to being contractually bound by the Stipulated Protective Order, I am subject to the powers of the Bankruptcy Court for any violation of the Stipulated Protective Order.

I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this Action or any proceedings related to enforcement of this Stipulated Protective Order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____ [DAY, MONTH, YEAR], at _____ [CITY, STATE].

Date: _____

[Signature] _____

Name (Printed) _____

¹ Capitalized terms not otherwise defined in this Acknowledgement and Agreement to Be Bound shall have the same meanings ascribed to them in the Stipulated Protective Order.